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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,577	02/18/2004	Stephen C. Bytnar	040051	3047

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PITTSBURGH, PA 15219

EXAMINER

BRUNSMAN, DAVID M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,577

Applicant(s)

BYTNAR ET AL.

Examiner

David M. Brunsman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12,14-17 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 6-10,12,14-17,23,24,27 and 28 is/are rejected.
- 7) ☒ Claim(s) 11,25,26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Applicant's response including amendment has been entered. A new non-final rejection over prior art follows.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-10, 12, 14-17, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by US 1910975.

The reference teaches a method of suppressing dust by spraying an area in need thereof with a dilute solution of 4-6 parts water to one part molasses (15% sugar solids) and a small amount of a salt selected from sodium and calcium chloride. See page 2, lines 45-58. The nutritiondata.com reference provided herein as a factual reference illuminates the composition of molasses as containing 78% solids of which about 38% is sucrose, about 15% is a monosaccharide in the form of glucose (synonym: dextrose) and about 17% is a second monosaccharide in the form of fructose.

Claims 6-9, 12, 14-16, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5328497.

Examples 1-2 of the reference teach a method of controlling dust by spraying an area of particulate fertilizer having need thereof with an aqueous composition comprising about 25% water, 15% calcium lignosulfonate, 26% molasses solids and 33% urea. While the calcium lignosulfonate is considered a hygroscopic salt, as the salt of the sulfonate derivative it is not considered to fall within the scope of "lignin". The nutritiondata.com reference provided herein as a factual reference illuminates the composition of molasses as containing about 38% is sucrose, about 15% is a monosaccharide in the form of glucose (synonym: dextrose) and about 17% is a second monosaccharide in the form of fructose.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1910975 or 5328497, as applied above, in view of US 5714387.

The difference between the 102 references and the instant claims is the presence of a tracer component such as a fluorescent dye. US 5714387 teaches a method of determining the dosage rate of a dust control agent sprayed onto dusty surfaces by including a fluorescent dye in the material to be sprayed and then measuring fluorescence. It would have been obvious to one of ordinary skill in the art to include such as dye in the compositions of the above references because one of ordinary skill in the art is taught deposition rates may be determined thereby.

Claim 11, 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to teach or suggest using a sugar having the profile of claim 11, including 60-90% on a dry basis of the salt component or adding lignin to the solutions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Brunsman whose telephone number is 571-272-1365. The examiner can normally be reached on M, W, F, Sa; 6:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David M Brunzman
Primary Examiner
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DMB

A handwritten signature in black ink, appearing to read 'DMB', with a long horizontal stroke extending to the right.